

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EISAI CO., LTD. and EISAI INC.,

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.,
TEVA PHARMACEUTICAL INDUSTRIES,
LTD., and GATE PHARMACEUTICALS (a
division of Teva Pharmaceuticals USA, Inc.),

Defendants.

Consolidated
Civil Action Nos.

05-cv-5727 (GEB) (ES)

07-cv-5489 (GEB) (ES)

~~PROPOSED~~ ORDER

Upon plaintiffs Eisai Co., Ltd. and Eisai Inc.'s ("Plaintiffs") application for the entry of an Order, pursuant to Local Civil Rule 5.3(c), providing for the sealing of Exhibits 11, and 17-19 to the Declaration of Anthony Michael submitted in support of Plaintiffs' Opposition to Defendants' Appeal from the December 8, 2009 Order of Magistrate Judge Salas filed on January 25, 2010 (the "Confidential Materials"); and the Court having considered the papers submitted in support of this Motion, the Court hereby finds:

1. Through discovery in this case, the parties have produced confidential information, the public disclosure of which could affect legitimate business interests. To protect the confidentiality of this information, the parties agreed to maintain the confidentiality of any produced materials pursuant to Paragraph 2 of the Protective Order, entered on October 12, 2006 (the "Order") (Docket No. 49).

2. The Order allows the parties to designate information as "Confidential" (Order ¶ 1), and provides that a party wishing to use material designated "Confidential" in a submission

filed with the Court must move pursuant to Local Rule 5.3 for leave to file the submission under seal (*id.* ¶ 12).

3. The Confidential Materials contain information that has been designated "Confidential" by Plaintiffs in accordance with the Protective Order.

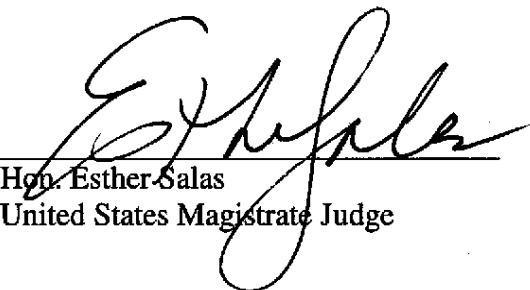
4. Plaintiffs have complied with the terms of the Protective Order by moving to seal the Confidential Materials pursuant to L.Civ.R. 5.3(c).

5. The information in the Confidential Materials satisfies the standards set forth in L.Civ.R. 5.3. The public release of this material, which includes confidential and proprietary business information of Plaintiffs, would greatly harm competitive and business interests. There is no less restrictive alternative to the sealing of this material.

THEREFORE, it is this 10th day of March, 2010

ORDERED that Motion to Seal Pursuant to Local Rule 5.3 is hereby granted; and

IT IS FURTHER ORDERED that the Clerk is hereby directed to seal the Confidential Materials.


Hon. Esther Salas
United States Magistrate Judge